

MT LEGISLATIVE HISTORY

Chapter 328 19 91

Bill H _____ S 198

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Mar 20 ☒ C

Hearing Date(s) Feb 06 ☒ C

_____ ☐ C

Feb 09 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Mar 20 ☒ C

Feb 07 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE FINAL STATUS

SB 198

BY REQUEST OF DEPARTMENT OF INSTITUTIONS

1/25	INTRODUCED		
1/25	REFERRED TO JUDICIARY		
1/25	FIRST READING		
2/01	HEARING		
2/05	COMMITTEE REPORT—BILL PASSED AS AMENDED	49	0
2/07	2ND READING PASSED	43	0
2/08	3RD READING PASSED		
	TRANSMITTED TO HOUSE		
2/09	FIRST READING		
2/09	REFERRED TO JUDICIARY		
3/06	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED	92	1
3/09	2ND READING CONCURRED	98	1
3/11	3RD READING CONCURRED		
	RETURNED TO SENATE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS NOT CONCURRED	49	0
3/20	CONFERENCE COMMITTEE APPOINTED		
4/23	CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/24	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
	HOUSE		
3/21	CONFERENCE COMMITTEE APPOINTED		
4/23	CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	93	5
4/24	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	96	4
4/25	SIGNED BY PRESIDENT		
4/29	SIGNED BY SPEAKER		
4/29	TRANSMITTED TO GOVERNOR		
5/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 736		

EFFECTIVE DATE: 10/01/91

SB 197 INTRODUCED BY KENNEDY, ET AL.
REVISE RESORT TAX TO ALLOW RESORT
TAX IN UNINCORPORATED AREA

1/25	INTRODUCED
1/25	REFERRED TO TAXATION
1/25	FIRST READING
1/25	FISCAL NOTE REQUESTED
1/29	FISCAL NOTE RECEIVED
1/29	FISCAL NOTE PRINTED
2/12	HEARING
2/20	TABLED IN COMMITTEE

SB 198 INTRODUCED BY B. BROWN, ET AL.
CORRECT HOUSING DISCRIMINATION CITATION ERROR
BY REQUEST OF COMMISSION FOR HUMAN RIGHTS

1/25	INTRODUCED		
1/25	REFERRED TO JUDICIARY		
1/25	FIRST READING		
2/06	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED		
2/09	2ND READING PASSED	47	0
2/11	3RD READING PASSED	48	0

TRANSMITTED TO HOUSE

2/12	FIRST READING		
2/12	REFERRED TO JUDICIARY		
3/20	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED		
3/23	2ND READING CONCURRED	91	0
3/25	3RD READING CONCURRED	94	1
	RETURNED TO SENATE		
3/28	SIGNED BY PRESIDENT		
4/01	SIGNED BY SPEAKER		
4/02	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 328		

EFFECTIVE DATE: 4/04/91

SB 199 INTRODUCED BY B. BROWN, ET AL.

AMEND HOUSING DISCRIMINATION LAWS
TO CONFORM TO FEDERAL LAW

BY REQUEST OF COMMISSION FOR HUMAN RIGHTS

1/25	INTRODUCED		
1/25	REFERRED TO JUDICIARY		
1/25	FIRST READING		
1/25	FISCAL NOTE REQUESTED		
1/30	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/06	HEARING		
2/09	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	48	0
2/12	3RD READING PASSED	47	1
	TRANSMITTED TO HOUSE		
2/13	FIRST READING		
2/13	REFERRED TO JUDICIARY		
3/20	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED		
4/05	2ND READING CONCURRED AS AMENDED	83	12
4/06	3RD READING CONCURRED	89	9
	RETURNED TO SENATE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS NOT CONCURRED	45	0
4/16	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	49	0
4/24	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	48	1
	HOUSE		
4/18	CONFERENCE COMMITTEE APPOINTED		
4/23	CONFERENCE COMMITTEE DISSOLVED		
4/23	FREE CONFERENCE COMMITTEE APPOINTED		
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	85	15
4/25	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	87	13
4/30	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 801		

EFFECTIVE DATE: 10/01/91

SB 200 INTRODUCED BY VAUGHN, ET AL.

REVISE LICENSING-RECORDKEEPING-TRAINING REQUIREMENTS

1 *Senate* BILL NO. *198*
2 INTRODUCED BY *Rep Brown Yellowstone*
3 BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE
6 DISCRIMINATION LAWS TO CORRECT AN INCORRECT CITATION TO
7 FEDERAL LAW; AMENDING SECTION 49-2-305, MCA; AND PROVIDING
8 AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
9 DATE."
10

11 WHEREAS, section 49-2-305, MCA, of the Human Rights Act
12 prohibits discrimination in housing; and

13 WHEREAS, that section exempts "housing for older
14 persons" from the prohibitions against discrimination in
15 housing based upon age and familial status; and

16 WHEREAS, the definition of "housing for older persons"
17 refers to 42 U.S.C. 3605(b)(2)(C) and (3) of the federal
18 Fair Housing Act; and

19 WHEREAS, this citation is incorrect and should read 42
20 U.S.C. 3607(b)(2)(C) and (3), which define "housing for
21 older persons" under federal law.

22 THEREFORE, it is appropriate for the Legislature to
23 amend section 49-2-305, MCA, to correct this citation error.
24

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **Section 1.** Section 49-2-305, MCA, is amended to read:

2 "49-2-305. Discrimination in housing -- exemptions. (1)

3 Except when the distinction is based on reasonable grounds,
4 it is an unlawful discriminatory practice for the owner,
5 lessee, manager, or other person having the right to sell,
6 lease, or rent a housing accommodation or improved or
7 unimproved property:

8 (a) to refuse to sell, lease, or rent the housing
9 accommodation or property to a person because of sex, race,
10 creed, religion, color, age, familial status, physical or
11 mental handicap, or national origin;

12 (b) to discriminate against a person because of sex,
13 race, creed, religion, age, familial status, physical or
14 mental handicap, color, or national origin in a term,
15 condition, or privilege relating to the use, sale, lease, or
16 rental of the housing accommodation or property;

17 (c) to make a written or oral inquiry or record of the
18 sex, race, creed, religion, age, physical or mental
19 handicap, color, or national origin of a person seeking to
20 buy, lease, or rent the housing accommodation or property;
21 or

22 (d) to refuse to negotiate for a sale or to make a
23 housing accommodation or property unavailable because of
24 sex, race, creed, religion, age, familial status, physical
25 or mental handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of subsection (1).

(3) It is also an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a preference, limitation, or discrimination.

(4) The prohibitions of this section against discrimination because of age and familial status do not extend to housing for older persons. "Housing for older persons" means housing:

(a) provided under any state or federal program specifically designed and operated to assist elderly persons;

(b) intended for, and solely occupied by, persons 62 years of age or older; or

(c) intended and operated for occupancy by at least one person 55 years of age or older per unit in accordance with the provisions of 42 U.S.C. 3605(b)(2)(E)---and (3) 3607(b)(2)(C) and (3) and 24 C.F.R. 100.304, as those sections read on October 1, 1989.

(5) The prohibitions of this section against

discrimination because of age and familial status do not extend to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence.

(6) For purposes of this section, "familial status" means having a child or children who live or will live with a person. A distinction based on familial status includes one that is based on the age of a child or children who live or will live with a person."

NEW SECTION. **Section 2. Retroactive applicability.**

[This act] applies retroactively, within the meaning of 1-2-109, to causes of action arising on or after October 1, 1989.

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

-End-

CHAIRMAN--RICHARD PINSONEAULT
NORMAL SCHEDULE==> SITE: ROOM 325

DAYS: M,T,W,T,F

TIME: 10:00 A.M.

SECRETARY-JOANN BIRD

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0125	1/18	1/23		PASS AS AMENDED		1/28
BROWN, BOB			REQUIRE LOAN AND CREDIT AGREEMENTS TO BE IN WRITING TO BE ENFORCEABLE			
SB0138	1/18	1/31		TABLED ON 02/23		
STIMATZ, LAWRENCE			WORKFORCE DRUG TESTING ACT			
SB0140	1/18	1/25		PASS AS AMENDED		1/28
WATERMAN, MIGNON			INCLUDE ANABOLIC STEROIDS AS A SCHEDULE III DRUG			
SB0145	1/18	1/24		ADVERSE RPT ADOPT		2/23
BROWN, BOB			ALLOW NEW TYPE OF GAMBLING ONLY BY VOTE OF THE PEOPLE			
SB0153	1/21	1/29		ADVERSE RPT ADOPT		2/06
TOWE, TOM			REVISE COLLATERAL SOURCE RULE			
SB0154	1/22	2/01	2/13	PASS AS AMENDED		2/16
NATHE, DENNIS			CLARIFY LEGISLATIVE IMMUNITY			
SB0170	1/22	1/29		PASS AS AMENDED		1/31
VAUGHN, ELEANOR			SEXUAL OFFENDER PAY FOR EVALUATION; ESTABLISH QUALIFICATIONS OF EVALUATORS			
SB0190	1/23	1/31	2/6	PASS AS AMENDED		2/09
WEEDING, CECIL			REVISE METHOD OF ENFORCEMENT AND PENALTIES FOR UNFAIR TRADE PRACTICES			
SB0196	1/25	2/01		PASS AS AMENDED		2/05
BECK, TOM			PROVIDE FOR CONFINEMENT OF INMATES WHEN INSTITUTION'S CAPACITY EXCEEDED			
SB0198	1/25	2/06		DO PASS		2/07
BROWN, BOB			CORRECT HOUSING DISCRIMINATION CITATION ERROR			
SB0199	1/25	2/06	2/15- statute of limitations	PASS AS AMENDED		2/09
BROWN, BOB			AMEND HOUSING DISCRIMINATION LAWS TO CONFORM TO FEDERAL LAW			

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on February 6, 1991,
at 10:00 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Announcements/Discussion:

HEARING ON HOUSE BILL 71

Presentation and Opening Statement by Sponsor:

Representative Bill Strizich, District 41, told the Committee HB 71 is part of a package of bills from the interim committee on juvenile detention. He said the bill enhances current law by requiring that those who are incarcerated pay for the cost of incarceration if they have the ability to do so.

Representative Strizich explained that such things as lack of funding for and recreation at incarceration facilities are two of the costs which could be met by this bill. He stated there is a "logical connection" between space available and paying for cost of incarceration. Representative Strizich advised the Committee the

detention facility bills from this package are long overdue, and said the fiscal note reflects revenue and not expenses.

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, said he worked closely with the interim committee and supports HB 71.

Opponents' Testimony:

Patricia Bradley, Montana Magistrates Association, stated the judges believe this sentencing should not be legislated as mandatory. She read from prepared testimony in opposition to the bill (Exhibit #1).

Questions From Committee Members:

Chairman Pinsoneault commented to Patricia Bradley that judges have a detailed form for each individual defense, and said he did not see making this determination as being very difficult. Ms. Bradley replied that it could develop into extra workload.

Chairman Pinsoneault asked Representative Strizich to address the concerns of the Magistrates. Representative Strizich replied that the bill is part of even treatment.

Chairman Pinsoneault stated he believes the judges would be more comfortable with this language as part of the law.

Senator Towe said he had concerns about "shall", and asked if it were the intent that the court would have no discretion. Representative Strizich replied the intent is that the ability to pay can be done on a sliding fee scale. He explained that the state average is \$27.50 per day.

Senator Towe said he also had concerns with "is confined in a detention center", and asked if that included state prison. Representative Strizich replied it does not include the prison, and said detention centers have a specific application.

Closing by Sponsor:

Representative Strizich told the Committee HB 71 had a good hearing in the House, and that he would be available to answer any questions.

HEARING ON SENATE BILL 198

Presentation and Opening Statement by Sponsor:

Senator Bob Brown, District 2, said SB 198 was introduced at the request of the Human Rights Commission. He explained that the bill addresses incorrect provisions of federal code. Senator Brown

advised the Committee that in the 1987 discrimination bill, the Legislature recognized the value of discrimination in preventing families with children from living in housing designed specifically for older persons, but the wrong code is referred to in that legislation. He said that part of the code has been corrected, and that it also contains a retroactivity clause.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Senator Brown made no closing comments.

HEARING ON SENATE BILL 199

Presentation and Opening Statement by Sponsor:

Senator Bob Brown, District 2, told the Committee SB 199 was also drafted at the request of the Human Rights Commission. He stated that about ten years ago, Montana began a cooperative effort with the federal Fair Housing Development. He explained that in 1988 the federal Fair Housing Act was amended by Congress and that Montana needs to be brought into compliance by January 1992.

Senator Brown stated there are substantial changes on pages 3-7, and that procedural changes reflect 1988 federal changes.

Proponents' Testimony:

Anne MacIntyre, Administrator, Human Rights Commission (HRC), provided committee members with written testimony in support of SB 199 (Exhibit #2). She said the bill makes provision for handicapped persons; prohibits blockbusting; prohibits discrimination in real estate transactions and the real estate industry; prohibits coercion and intimidation on the basis of race, sex, etc.; and prohibits criminal acts.

Ms. MacIntyre said subsection (c) of 49-2-305, MCA is repealed, as there can be valid reasons for making inquiry for records, such as real estate industry marketing. She advised the Committee that the bill allows the HRC to set penalties, the funds from which are to be placed in an ear-marked revenue account. Ms. MacIntyre further advised the Committee that the statute of

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1999

Date 6 Feb 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

COMMITTEE ON

Judiciary

SB 198

VISITORS' REGISTER SB 199 H.B. 71

[illegible]

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Pinsoneault, on February 7, 1991, at 10:00 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Senator VanValkenburg asked the Committee to consider an amendment to SB 51 on Friday, February 8, 1991.

Senator Doherty announced that Representative Dave Brown had asked him to carry an amendment on bad check charges on the Senate floor on HB 114.

HEARING ON HOUSE BILL 178

Presentation and Opening Statement by Sponsor:

Representative Howard Toole, District 60, said HB 178 addresses the Uniform International Will Act covering ownership of property in more than one country. He advised the Committee that a 1973 convention established a series of rules relating to international wills, and that the NCCUSL (National Conference Committee on Uniform Statute Law) began to check it out in 1977

Senator Towe commented that it could be added to the title.

Senator Mazurek stated veterans and handicapped are not included in human rights statutes. Senator Towe replied he was concerned that if housing were at one year, it would be confusing. Senator Mazurek advised him there are all kinds of different statutes of limitation.

Senator Doherty said he believes it would create the potential for confusion, and that uniformity would be better. He stated these cases are notoriously fact-bound and are worse than divorce.

Senator Towe commented that Senator Mazurek's amendments could be taken and the rest be addressed through a committee bill. Senator Mazurek replied he would not support a committee bill. He stated 180 days has worked since 1979 and ought to continue, and added that he had not heard a clamor to change it.

Senator Svrcek asked Senator Brown to comment. Senator Brown replied he favored Senator Mazurek's amendment, as the state needs to conform to federal law on this issue.

Recommendation and Vote:

Senator Harp made a motion that Senator Mazurek's amendments be approved. The motion carried unanimously.

Senator Mazurek made a motion that SB 199 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 198

Motion:

Discussion:

Senator Mazurek asked Anne MacIntyre if she had brought the correction in this bill to the attention of the Code Commissioner. Ms. MacIntyre replied she did not.

Amendments, Discussion, and Votes:

Recommendation and Vote:

Senator Mazurek made a motion that SB 198 DO PASS. The motion carried unanimously.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1999

Date 7 Feb

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 7, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 198 (first reading copy -- white), respectfully report that Senate Bill No. 198 do pass.

Signed: 
Richard Pincusault, Chairman

BEST COPY
AVAILABLE

1 2-7-11
Amd. Coord.

SB 2-7 11:30
Sec. of Senate

20121687.811

15

1 *Senate* BILL NO. *198*
2 INTRODUCED BY *Rep. Brown Yellowstone*
3 BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE
6 DISCRIMINATION LAWS TO CORRECT AN INCORRECT CITATION TO
7 FEDERAL LAW; AMENDING SECTION 49-2-305, MCA; AND PROVIDING
8 AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
9 DATE."
10

11 WHEREAS, section 49-2-305, MCA, of the Human Rights Act
12 prohibits discrimination in housing; and

13 WHEREAS, that section exempts "housing for older
14 persons" from the prohibitions against discrimination in
15 housing based upon age and familial status; and

16 WHEREAS, the definition of "housing for older persons"
17 refers to 42 U.S.C. 3605(b)(2)(C) and (3) of the federal
18 Fair Housing Act; and

19 WHEREAS, this citation is incorrect and should read 42
20 U.S.C. 3607(b)(2)(C) and (3), which define "housing for
21 older persons" under federal law.

22 THEREFORE, it is appropriate for the Legislature to
23 amend section 49-2-305, MCA, to correct this citation error.
24

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Section 49-2-305, MCA, is amended to read:

2 "49-2-305. Discrimination in housing -- exemptions. (1)

3 Except when the distinction is based on reasonable grounds,
4 it is an unlawful discriminatory practice for the owner,
5 lessee, manager, or other person having the right to sell,
6 lease, or rent a housing accommodation or improved or
7 unimproved property:

8 (a) to refuse to sell, lease, or rent the housing
9 accommodation or property to a person because of sex, race,
10 creed, religion, color, age, familial status, physical or
11 mental handicap, or national origin;

12 (b) to discriminate against a person because of sex,
13 race, creed, religion, age, familial status, physical or
14 mental handicap, color, or national origin in a term,
15 condition, or privilege relating to the use, sale, lease, or
16 rental of the housing accommodation or property;

17 (c) to make a written or oral inquiry or record of the
18 sex, race, creed, religion, age, physical or mental
19 handicap, color, or national origin of a person seeking to
20 buy, lease, or rent the housing accommodation or property;
21 or

22 (d) to refuse to negotiate for a sale or to make a
23 housing accommodation or property unavailable because of
24 sex, race, creed, religion, age, familial status, physical
25 or mental handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of subsection (1).

(3) It is also an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a preference, limitation, or discrimination.

(4) The prohibitions of this section against discrimination because of age and familial status do not extend to housing for older persons. "Housing for older persons" means housing:

(a) provided under any state or federal program specifically designed and operated to assist elderly persons;

(b) intended for, and solely occupied by, persons 62 years of age or older; or

(c) intended and operated for occupancy by at least one person 55 years of age or older per unit in accordance with the provisions of 42 U.S.C. 3605(b)(2)(C) and 24 C.F.R. 100.304, as those sections read on October 1, 1989.

(5) The prohibitions of this section against

discrimination because of age and familial status do not extend to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence.

(6) For purposes of this section, "familial status" means having a child or children who live or will live with a person. A distinction based on familial status includes one that is based on the age of a child or children who live or will live with a person."

NEW SECTION. Section 2. Retroactive applicability.

[This act] applies retroactively, within the meaning of 1-2-109, to causes of action arising on or after October 1, 1989.

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

-End-

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
 FINAL COMMITTEE REPORT OF REFERRED BILLS
 COMMITTEE--(H) JUDICIARY

PAGE NBR..... 85
 RUN TIME13:25
 RUN DATE.... 06/04/91

CHAIRMAN--BILL STRIZICH
 NORMAL SCHEDULE==> SITE: ROOM 312-2

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY--JEANNE DOMME

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0194	1/15	1/23		PASS AS AMENDED		1/23
TOOLE, HOWARD EXEMPT INDIGENT FROM POSTING BOND ON APPEAL TO DISTRICT COURT						
HB0197	1/15	1/24		PASS AS AMENDED		1/24
BOHARSKI, WILLIAM CLARIFY PENALTY FOR UNREASONABLE DELAY IN PAYMENT OF WORKERS' COMP CLAIMS						
HB0198	1/15	1/22		TABLED ON 01/22		
RICE, JIM REDUCE TIME FOR FILING POSTCONVICTION RELIEF PETITION						
HB0211	1/16	1/24		DO PASS		1/24
BRADLEY, DOROTHY AMENDING THE SEXUAL INTERCOURSE WITHOUT CONSENT STATUTE						
HB0212	1/16	2/01		PASS AS AMENDED	JUDICIARY	2/06
COHEN, BEN PROVIDE FOR FREEDOM OF EXPRESSION BY STUDENTS						
HB0212	2/06			PASS AS AMENDED		2/15
COHEN, BEN PROVIDE FOR FREEDOM OF EXPRESSION BY STUDENTS						
HB0221	1/16	1/24		DO PASS		1/24
TOOLE, HOWARD REVISION OF AMOUNT OF FINE CREDITED FOR JAIL TIME FOR TRAFFIC VIOLATIONS						
HB0228	1/17	1/25		PASS AS AMENDED		1/29
LARSON, DON ALLOW EMERGENCY RESPONDERS TO RECOVER COST FOR HAZARDOUS MATERIALS INCIDENT						
HB0229	1/17	1/25		TABLED ON 01/25		
FAGG, RUSSELL INCREASE PENALTY FOR DISORDERLY CONDUCT OFFENSES						
HB0252	1/21	1/29		PASS AS AMENDED		2/04
FORRESTER, GARY ALLOW 45 DAYS TO GIVE NOTICE OF RIGHT TO CLAIM CONSTRUCTION LIEN						
HB0268	1/19	1/25		DO PASS		2/05
MEASURE, BRUCE CREATE APPELLATE DEFENDER COMMISSION & OFFICE OF APPELLATE DEFENDER						

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on March 20, 1991, at 8:12 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Members Excused: Rep. Keller

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

EXECUTIVE ACTION ON SB 379

Motion: REP. BROWN MOVED SB 379 DO BE CONCURRED IN.

Motion: REP. WYATT moved to amend SB 379. EXHIBIT 1

Discussion:

REP. WYATT stated that the training program of probation and parole officers is inadequate. She stated that most of her amendment addresses some of the training and the other part of

bought insurance doesn't waive that immunity.

Motion/Vote: REP. LEE MADE A SUBSTITUTE MOTION to amend SB 154 with the amendment proposed by John MacMaster. Motion failed on a tie vote. EXHIBIT 4

Vote: Motion failed 5 to 13. EXHIBIT 5

Motion/Vote: REP. GOULD MOVED SB 154 DO BE CONCURRED IN AS AMENDED. Motion carried 19 to 1 with Rep. Clark voting no.

HEARING ON SB 198
CORRECT HOUSING DISCRIMINATION CITATION ERROR

Presentation and Opening Statement by Sponsor:

SEN. BROWN, SENATE DISTRICT 2, stated that this was requested by the Commission on Human Rights. He stated that SB 198 corrects an incorrect citation in the Federal Law. The 1990 Legislature enacted legislature that prohibited discrimination in housing for families with children, but the legislature recognized an exception to that in places where housing is primarily for Senior Citizens. He stated that in the citation that reflected that exception was adopted by reference and cited in the law. "The problem was that it was an incorrect citation." He stated that this bill corrects that citation and makes the bill retroactive on its applicability in the event someone refused to allow a family with children from living in an apartment complex that was for Senior Citizens only.

Proponents' Testimony: NONE

Opponents' Testimony: NONE

Questions From Committee Members: NONE

Closing by Sponsor: NONE

HEARING ON SB 199
AMEND HOUSING DISCRIMINATION LAWS TO CONFORM TO FEDERAL LAW

Presentation and Opening Statement by Sponsor:

SEN. BROWN, SENATE DISTRICT 2, stated that this bill was at the request of the Human Rights Commission. He stated that SB 199 is an act that amends housing discrimination laws and makes them substantially equivalent to Federal Discrimination Laws.

Proponents' Testimony:

Ann MacIntyre, Administrator - State's Human Rights Commission,

EXECUTIVE ACTION ON SB 198

Motion/Vote: REP. STICKNEY MOVED SB 198 DO BE CONCURRED IN.

Motion carried 19 to 1 with Rep. Brown voting no.

EXECUTIVE ACTION ON SB 87

Motion: REP. GOULD MOVED SB 87 DO BE CONCURRED IN.

Discussion:

REP. MEASURE stated that Realtors already have the right to file interpleader action in small claims court in the District Court for almost any amount of money they want to if that is what they choose. He stated that they cannot do it in Justice Court or Small Claims Division because all interpleader are denied in Justice Courts by statute. He felt that what happens to people that want to save a few dollars is that they are suing Justice Courts over the deposits from the buyer to the lender and people are not putting as much down on homes as they used to. He stated that it is basically the buyer and seller arguing over who has the right to the deposit and the person who would know more than anyone else about the situation would be the realtor. He felt that whoever drafted the current code spent a lot of time figuring out what should and shouldn't go into it and this was one thing they didn't want in the code because it would confuse the concept. He stated that he was not in favor of SB 87.

REP. LEE asked if there would be a problem if the committee were to give the jurisdiction to the lower courts?

REP. MEASURE stated that lower courts do not record their cases so that the person will not have a record to review to determine how the funds were distributed. He felt that was one big problem with giving jurisdiction to lower courts.

REP. MEASURE asked Tom Hopgood if this bill was the original intent of the law in 1987? Mr. Hopgood stated that he felt that it was the intent of the law in 1987 based on conversation from people that were running around the legislature back in 1987.

REP. WHALEN stated that REP. MEASURE has a problem with the fact that Justice Courts are not a court of record and that it caused him concern also. He felt that the Small Claims Division in District Court, which is a court of record, should be set up to handle small claims and limit themselves to that duty. REP. WHALEN asked Tom Hopgood how he felt about that? Mr. Hopgood stated that is already current law.

Vote: Motion carried 17 to 3 with Rep's: Measure, Wyatt and Brown voting no.

EXECUTIVE ACTION ON SB 125

Motion: REP. JOHNSON MOVED SB 125 DO BE CONCURRED IN.

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3.20.91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	///		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER			/
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB#198
DATE 3-20-91 SPONSOR(S) Rep. Brown

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

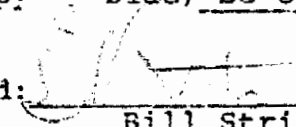
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HOUSE STANDING COMMITTEE REPORT

March 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 198 (third reading copy -- blue) be concurred in .

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Stickney

SENATE BILL NO. 198

INTRODUCED BY B. BROWN, YELLOWTAIL, J. RICE, STRIZICH

BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE DISCRIMINATION LAWS TO CORRECT AN INCORRECT CITATION TO FEDERAL LAW; AMENDING SECTION 49-2-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, section 49-2-305, MCA, of the Human Rights Act prohibits discrimination in housing; and

WHEREAS, that section exempts "housing for older persons" from the prohibitions against discrimination in housing based upon age and familial status; and

WHEREAS, the definition of "housing for older persons" refers to 42 U.S.C. 3605(b)(2)(C) and (3) of the federal Fair Housing Act; and

WHEREAS, this citation is incorrect and should read 42 U.S.C. 3607(b)(2)(C) and (3), which define "housing for older persons" under federal law.

THEREFORE, it is appropriate for the Legislature to amend section 49-2-305, MCA, to correct this citation error.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-2-305, MCA, is amended to read:

"49-2-305. Discrimination in housing -- exemptions. (1)

Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, or other person having the right to sell, lease, or rent a housing accommodation or improved or unimproved property:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, creed, religion, color, age, familial status, physical or mental handicap, or national origin;

(b) to discriminate against a person because of sex, race, creed, religion, age, familial status, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of the housing accommodation or property;

(c) to make a written or oral inquiry or record of the sex, race, creed, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent the housing accommodation or property; or

(d) to refuse to negotiate for a sale or to make a housing accommodation or property unavailable because of sex, race, creed, religion, age, familial status, physical or mental handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of subsection (1).

(3) It is also an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a preference, limitation, or discrimination.

(4) The prohibitions of this section against discrimination because of age and familial status do not extend to housing for older persons. "Housing for older persons" means housing:

(a) provided under any state or federal program specifically designed and operated to assist elderly persons;

(b) intended for, and solely occupied by, persons 62 years of age or older; or

(c) intended and operated for occupancy by at least one person 55 years of age or older per unit in accordance with the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24 C.F.R. 100.304, as those sections read on October 1, 1989.

(5) The prohibitions of this section against

discrimination because of age and familial status do not extend to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence.

(6) For purposes of this section, "familial status" means having a child or children who live or will live with a person. A distinction based on familial status includes one that is based on the age of a child or children who live or will live with a person."

NEW SECTION. Section 2. Retroactive applicability.

[This act] applies retroactively, within the meaning of 1-2-109, to causes of action arising on or after October 1, 1989.

NEW SECTION. Section 3. Effective date. [This act] is

effective on passage and approval.

-End-